

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al.,                   :     CIVIL ACTION  
  :       
  :     Plaintiffs                                   :  
  :       
  :     v.   :  
GOVERNOR MARK SCHWEIKER, et al.,           :       
  :     Defendants                                   :     NO. 02-CV-2949

ORDER

AND NOW, this            day of September, 2006, it is ORDERED that

1. This case is removed from Civil Suspense;
2. The parties may, within ten days after entry and service of this Order, file supplemental memoranda of law relevant to the outstanding cross-motions for summary judgment. The parties may respond to each others' submissions within another ten days thereafter.

BY THE COURT:

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TIMOTHY J. SAVAGE, J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al., : CIVIL ACTION  
Plaintiffs :  
v. :  
GOVERNOR MARK SCHWEIKER, et al., :  
Defendants : NO. 02-CV-2949

MOTION TO REMOVE CASE FROM SUSPENSE AND  
GRANT LEAVE TO FILE SUPPLEMENTAL MEMORANDUM

Defendants move the Court to remove this case from civil suspense and grant them leave to file a supplemental memorandum of law, and state:

1. The Court has before it cross-motions for summary judgment.
2. By orders dated May 6, 2005 (Document 227) and October 26, 2005 (Document 237), the Court placed the case in suspense pending decisions by the Court of Appeals in the cases of Taylor v. Oney, No. 04-2062; Jones v. Brown, No. 03-3823; and Allah v. Governor, State of New Jersey, Nos. 04-4426, 04-4493.
3. On August 24, 2006, the Court of Appeals issued its decisions in the above cases.
4. Defendants wish to submit a memorandum of law regarding the consolidated Jones v. Brown and Allah v. Codey decision, as well as the recent the U.S. Supreme Court decision in Beard v. Banks, 126 S.Ct. 2572 (2006), which upholds restrictions on First Amendment rights of Pennsylvania prisoners.

WHEREFORE, Defendants request that the Court remove this case from  
suspense and grant them leave to file a supplemental memorandum of law.

THOMAS W. CORBETT, JR.  
Attorney General of Pennsylvania

By: s/John O. J. Shellenberger

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John O. J. Shellenberger  
Chief Deputy Attorney General  
Attorney I.D. No. 09714  
Attorney for Defendants

CERTIFICATE OF SERVICE

I, John O. J. Shellenberger, hereby certify that Defendants' Motion To Remove Case From Suspense And Grant Leave To File Supplemental Memorandum has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System. I further certify that a true and correct copy of Defendants' Motion To Remove Case From Suspense And Grant Leave To File Supplemental Memorandum was mailed on September 11, 2006, by first class mail, postage prepaid to:

Derrick Dale Fontroy, AY-7513  
State Correctional Institution  
at Forest  
P.O. Box 307  
Marienville, PA 16239-0307

Aaron Christopher Wheeler, BZ-2590  
State Correctional Institution  
at Graterford  
P.O. Box 244  
Graterford, PA 19426-0244

Theodore B. Savage, CB-2674  
State Correctional Institution  
at Cresson  
Drawer A, Old Route 22  
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s/ John O. J. Shellenberger

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